

MAR 26 1991

Assistant Regional Commissioner (Examination)
Central Region

Chief, Branch 5
Income Tax & Accounting

Technical Coordination Report - TCR 17,886
Submitted by: Richard Wright
District Office: Detroit
Control No.: TR-45-0211-91

This is in reference to the Technical Coordination Report ("TCR") identified above. The TCR recommends that the National Office disallow the deduction for interest expense for dockominiums, and change the regulations under section 163 of the Internal Revenue Code.

Section 1.163-10T(p)(3) of the Temporary Income Tax Regulations defines the circumstances under which section 163 permits deduction of mortgage interest for the acquisition of a qualifying second residence as defined in section 1.163-10T(p)(3)(ii), which states that whether property is a residence shall be determined based on all the facts and circumstances, including the good faith of the taxpayer. A residence generally includes a house, condominium, mobile home, boat, or house trailer, that contains sleeping space and toilet and cooking facilities. A residence does not include personal property, such as furniture or a television that, in accordance with the applicable local law, is not a fixture.

Some taxpayers have acquired a vessel with a dock. The vessel is of sufficient size and properly equipped to constitute a second residence when actually occupied, and is moored to the dock for a substantial portion of the year. The dock space may be bought and financed like a vacation condominium unit, with a monthly condo fee and a price of perhaps \$30,000 for the dock alone, but the taxpayer regards the dock as an attachment to the vessel. There is no guidance as to the propriety of this procedure in section 1034 of the Code (principal residence), or elsewhere.

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We have consulted the principal author of the temporary regulations now in the draft stage for personal interest and qualified residence interest. It has been agreed that we will consider issuing a revenue ruling on the subject, or will alter the proposed regulation draft. Our proposed position on dockominiums does not differ from that suggested by Mr. Wright, but that is subject to change.

We appreciate Mr. Wright's interest and hope he will continue to submit his ideas. Copies of this memorandum are attached for the District Technical Coordinator, Mr. Wright, and other interested persons.

Attachments (4)